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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/769,797	02/03/2004	Andrew Shun Pui Chiu	016660-193	9241
21839	7590	07/26/2004	EXAMINER	
BURNS DOANE SWECKER & MATHIS L L P			MILLER, BENA B	
POST OFFICE BOX 1404			ART UNIT	
ALEXANDRIA, VA 22313-1404			PAPER NUMBER	
			3712	

DATE MAILED: 07/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/769,797

**Applicant(s)**

CHIU, ANDREW SHUN PUI

**Examiner**

Bena Miller

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

**DETAILED ACTION*****Drawings***

Figures 1 and 2 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Specification***

The abstract of the disclosure is objected to because the abstract does not include the range of 50 to 150 words. Correction is required. See MPEP § 608.01(b).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoneda et al in view of Kamoshita, Fetridge et al or Eisenbraun.

Yoneda et al teaches in the figures most of the elements of the claimed invention except for a manually driven electrical power generating means. Kamoshita, Fetridge et al and Eisenbraun teaches in the figures that a manually driven electrical power generating means is used to supply electrical power to a toy. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a manually driven electrical power generating means as taught by Kamoshita, Fetridge et al and Eisenbraun to the toy of Yoneda et al for the purpose of powering the toy car.

Regarding claims 2 and 3, it would have been considered a mere design choice to use a foot-operated generator and treadmill-operated generator with the toy of Yoneda et al. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a foot-operated generator and treadmill-operated generator with the toy of Yoneda et al for the purpose of generating power to the toy.

Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jones et al in view of Kamoshita, Fetridge et al or Eisenbraun.

Jones et al teaches in the figures most of the elements of the claimed invention including a sound generating mean. However, Jones et al fails to teach a manually driven electrical power generating means that supplies electrical power to the slot and the sound generating means. Kamoshita, Fetridge et al and Eisenbraun teaches in the figures that a manually driven electrical power generating means is used to supply electrical power to a toy. It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate a manually driven electrical power

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generating means as taught by Kamoshita, Fetridge et al and Eisenbraun to the slot of Jones et al for the purpose of powering the toy car.

Regarding claims 2 and 3, it would have been considered a mere design choice to use a foot-operated generator and treadmill-operated generator with the toy of Yoneda et al. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a foot-operated generator and treadmill-operated generator with the toy of Yoneda et al for the purpose of generating power to the toy.

Regarding claim 6, it would have been obvious to one having ordinary skill in the art at time the invention was made to use a manually driven electrical power generating means as taught by Kamoshita, Fetridge et al and Eisenbraun with the sound generating means of Jones et al for the purpose of producing sound when the car is moving on the track.

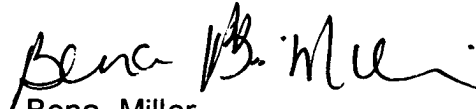
### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Piserchia et al teaches a vehicle guidance track system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bena Miller whose telephone number is 703.305.0643. The examiner can normally be reached on Monday-Friday.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Bena B. Miller".

Bena Miller  
Examiner  
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bbm  
July 23, 2004